

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

STEVEN DE COSTA, in his) Civil No.
representative Capacity as) 03-00598 DAE/LEK
Chairperson of the Board of)
Trustees of United Public)
Workers, AFSCME, Local 646,)
AFL-CIO, Mutual Aid Fund)
Trust, Real Party in Interest)
United Public Workers Union,)
AFSCME, Local 646, AFL-CIO,)
Plaintiffs,)
vs.)
GARY W. RODRIGUES,)
Defendant.)

DEPOSITION OF ALISON LEONG

Taken on behalf of Defendant Gary W. Rodrigues at
the Law Office of Eric A. Seitz, 820 Mililani
Street, Suite 714, Honolulu, Hawaii, commencing at
11:40 a.m. on September 28, 2007, pursuant to
Notice.

Before: WILLIAM T. BARTON, RPR, CSR NO. 391

EXHIBIT 1

<p>1 APPEARANCES:</p> <p>2 For Plaintiff CHARLES A. PRICE, ESQ. Koshiba Agena & Kubota Suite 2600, Pauahi Tower 1003 Bishop Street Honolulu, Hawaii 96813 (808) 523-3900</p> <p>3 For Defendant Gary W. Rodrigues ERIC A. SEITZ, ESQ. 820 Mililani Street, Suite 714 Honolulu, Hawaii 96813 (808) 533-7434</p>	Page 2	<p>1 (Disclosure presented to Counsel.)</p> <p>2 ALISON LEONG,</p> <p>3 Called as a witness by Defendant Gary W.</p> <p>4 Rodrigues, having been first duly sworn, was</p> <p>5 examined and testified as follows:</p> <p>6 EXAMINATION</p> <p>7 BY MR. SEITZ:</p> <p>8 Q. Would you please state your full name.</p> <p>9 A. Alison W.N. Leong.</p> <p>10 Q. And, Ms. Leong, have you ever had your</p> <p>11 deposition taken before?</p> <p>12 A. No.</p> <p>13 Q. Would you also please give us your</p> <p>14 current residence address?</p> <p>15 A. 308 Bates Street, Honolulu, Hawaii</p> <p>16 96817.</p> <p>17 Q. I'm sure that Mr. Price has told you</p> <p>18 what happens at a deposition. But there are</p> <p>19 certain things I want to go over with you on the</p> <p>20 record so that the record is clear that we</p> <p>21 explained them to you.</p> <p>22 A. Okay.</p> <p>23 Q. The first thing is that you understand</p> <p>24 that the testimony you are giving this morning is</p> <p>25 under oath; is that correct?</p>	Page 4	
<p>1 I N D E X</p> <p>2 EXAMINATION By Mr. Seitz</p> <p>3 ALISON LEONG</p> <p>4 Deposition Exhibits</p> <p>4 June 21, 1994 Minutes</p> <p>5 Declaration of Alison Leong</p>	Page 3	<p>Page 4</p> <p>Marked</p> <p>18 36</p>	<p>1 A. That's correct.</p> <p>2 Q. Secondly, as you've been doing, please</p> <p>3 continue giving audible responses. Because the</p> <p>4 court reporter is trying to take everything down,</p> <p>5 and if you nod or say uh-huh (affirmative) or</p> <p>6 something like that, he can't get a clear</p> <p>7 response. Okay?</p> <p>8 A. Okay.</p> <p>9 Q. Also if you would wait until I finish my</p> <p>10 question before you answer. And I will give you</p> <p>11 the same courtesy, and that way we can avoid</p> <p>12 having two people speak at one time which also</p> <p>13 makes it difficult for the court reporter, okay?</p> <p>14 A. Okay.</p> <p>15 Q. Also, please only answer a question that</p> <p>16 I ask of you if you've understood it. So if I ask</p> <p>17 you something that's not clear or you don't</p> <p>18 understand, ask me to repeat it. Don't try and</p> <p>19 guess at the question because that way we also</p> <p>20 will not get the kind of accurate record that we</p> <p>21 need. All right?</p> <p>22 A. Okay.</p> <p>23 Q. You will be given an opportunity after</p> <p>24 the conclusion of this deposition, you will be</p> <p>25 sent a notice that tells you that you can read</p>	Page 5

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1 your testimony in a transcribed form, and then you 2 can make any changes or corrections if you choose 3 to do so. 4 But you also need to know that if you do 5 make any changes or corrections, that somebody 6 later may comment upon the fact that you changed 7 your testimony. Do you understand that? 8 A. Yes. 9 Q. Lastly, let me just simply say that any 10 time you need to go off the record, you want to 11 confer with Mr. Price or take a break for any 12 reason, just let me know and we can tell the court 13 reporter to stop, and we can take a break. Okay? 14 A. Okay. 15 Q. I would estimate we'll be here for about 16 two hours, give or take. But, you know, if you 17 need a break at any time just let us know, okay? 18 A. Okay. 19 Q. First of all let me ask you, did you 20 look at any documents or records or anything at 21 all before coming here to prepare for this 22 deposition? 23 A. The declaration. 24 Q. It's your declaration? 25 A. Yes. And George Yasumoto's.	1 A. I have a bachelors in social science. 2 Q. Do you remember what year you received 3 that? 4 A. 1971. 5 Q. And after Hawaii Loa College did you go 6 back to school and have any other further 7 education? 8 A. I have an accounting background. 9 Q. Where did you take accounting courses? 10 A. It was the Kenway School of Accounting. 11 Q. Did you get any kind of certificate of 12 any sort for that? 13 A. Yes. 14 Q. When did you do that? 15 A. I think it was for a year in 1972. 16 Q. And do you hold any license of any sort 17 to perform accounting work? 18 A. No. 19 Q. Tell me if you would, how are you 20 currently employed? 21 A. I'm employed at Kapiolani Medical Center 22 for Women and Children as a health records 23 representative. 24 Q. And how long have you been employed at 25 Kapiolani?
Page 7	Page 9
1 Q. Other than those two declarations, did 2 you look at anything else? 3 A. No. 4 Q. I assume you had some conversation with 5 Mr. Price before you came here. Did you talk to 6 anybody else about the deposition and what was 7 going to happen here? 8 A. No. 9 Q. Would you please tell me what your 10 educational background is, starting from high 11 school. 12 A. Where? McKinley High School. 13 Q. You graduated from McKinley High School? 14 A. Yes. 15 Q. What year did you graduate? 16 A. 1967. 17 Q. And after high school did you go on with 18 your education? 19 A. Yes. 20 Q. What did you do next? 21 A. I went to Hawaii Loa College at that 22 time which became Hawaii Pacific University. 23 Q. How long did you attend Hawaii Loa? 24 A. Four years. 25 Q. Did you get a degree?	1 A. Twenty-six years. 2 Q. And what jobs have you held there? Have 3 you held the same job there essentially? 4 A. No. I started off as a general office 5 clerk. Then went to medical records. And was a 6 health records clerk. And then a health records 7 representative. 8 Q. And tell me if you would, how long you 9 have been a member of the United Public Workers 10 union? 11 A. I believe about 15 years. 12 Q. Did you join in connection with your 13 employment at Kapiolani? 14 A. Yes. 15 Q. Are you still a member today? 16 A. Yes. 17 Q. Have you held any positions with the UPW 18 as far as shop steward or any kind of other 19 officers or positions? 20 A. Yes. 21 Q. What other positions have you held? 22 A. Shop steward, secretary, and vice 23 president. 24 Q. Do you hold a position now? 25 A. Yes.

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1 Q. What is your current position? 2 A. Vice president of the private sector 3 division. 4 Q. In that capacity do you also serve on 5 the State Executive Board? 6 A. Yes. 7 Q. How long have you served on the State 8 Executive Board? 9 A. Let's see. Probably about, I'd say ten 10 years. 11 Q. So going back to approximately 1997? 12 A. Uh-huh (affirmative). 13 Q. Yes? 14 A. Yes. 15 Q. And you also serve as a trustee of the 16 Mutual Aid Fund Trust; is that correct? 17 A. Yes. 18 Q. How long have you served in that 19 capacity? 20 A. For the ten years. 21 Q. So you have served in both capacities 22 the same amount of time? 23 A. I'd say probably eight of the ten. 24 Q. Eight of the ten years? 25 A. As a trustee.	1 Q. When you first joined the board of the 2 Mutual Aid Fund Trust, what did you know about 3 that organization? 4 A. We -- it wasn't -- I guess there wasn't 5 joining it, you know, that was part of the vice 6 president's duty to be on. 7 Q. Let me ask you this. When you first 8 became a member of the board, what information had 9 been conveyed to you about that particular 10 organization, the Mutual Aid Fund Trust? What did 11 you know about it? 12 A. That it was -- the purpose of the Mutual 13 Aid was to -- there were funds that members put 14 into. And the funds were to be used for the 15 purpose of reimbursement for medical claims. 16 Q. This was a voluntary program that was 17 offered to UPW members? 18 A. Yes. 19 Q. And what did you understand to be your 20 role and responsibility as a trustee? 21 A. To administer or to meet about the fund 22 that we had for the members, in the members' 23 interests. 24 Q. Did anyone ever give you any kind of an 25 orientation or instruction about what your
1 Q. Okay. So you've been a member of the 2 State Executive Board for longer than you've been 3 a trustee of the Mutual Aid Fund Trust? 4 A. Yes. 5 Q. So that would put your membership on the 6 board of the Mutual Aid Fund Trust at some time 7 around 1998 or 1997? 8 A. Yes. 9 Q. Excuse me, '98 or '99? 10 A. Yes. 11 Q. Do you remember more precisely when you 12 joined the board and the Mutual Aid Fund Trust? 13 A. No. 14 Q. When you became a member of the Mutual 15 Aid Fund Trust Board, who was on the board at that 16 time, if you can recall? 17 A. The names you want? 18 Q. Yes. 19 A. Joseph Rodrigues. Joe Vegas. 20 Q. How about George Yasumoto? 21 A. Yes. And Adaline. 22 Q. Adaline Uhrle? 23 A. Uhrle. 24 Q. Anybody else you can recall? 25 A. No.	1 obligations were as a trustee? 2 A. Not that I can recall. 3 Q. Did you ever see the trust documents 4 themselves which set up the Mutual Aid Fund Trust? 5 A. Not that I can recall. 6 Q. Did anyone ever talk to you about what 7 it meant to be a fiduciary? 8 A. After late -- after Gary left we were 9 given classes or had presentations of what 10 fiduciary duties. We had lawyers come in and talk 11 to us. 12 Q. Who were those lawyers? 13 A. Oh, I can't recall the name. 14 Q. And what do you remember them telling 15 you? 16 A. That our duties were to look at reports. 17 And that we did have an obligation to the 18 membership. 19 Q. Okay. Was Gary Rodrigues a trustee? 20 A. At that -- my assumption is yes. 21 Q. So it's your belief, as you sit here 22 today, that when you joined the board, Gary 23 Rodrigues was the State Director, but he also was 24 a trustee? 25 A. Yes.

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1 Q. Who do you recall, when you joined the 2 board back in the late 1990s, was the 3 administrator for the -- to do the staff and 4 administrative work for the Mutual Aid Fund Trust? 5 A. Gary.	1 A. No. 2 Q. How often did the trustees of the Mutual 3 Aid Fund Trust meet?
6 Q. Do you know any of the circumstances 7 under which he was compensated or UPW was paid for 8 services that he performed for the Mutual Aid Fund 9 Trust?	4 A. It usually was after our State Executive 5 Board meetings which were normally quarterly. 6 Q. And typically, when you have a meeting 7 of the Board of Trustees of the Mutual Aid Fund 8 Trust, how long would that meeting take?
10 A. No.	9 A. About 15 minutes.
11 Q. Have you ever seen an administrative 12 services agreement between UPW and the Mutual Aid 13 Fund Trust which governs the staff, that is 14 provided to the fund?	10 Q. What would take place there? 11 A. We'd be given a booklet and review. And 12 Gary would say, this is what is happening or 13 happened.
15 A. No.	14 Q. And in the booklet you would receive 15 annual audits; is that correct?
16 Q. When you were starting out on the board 17 in whatever year in the late 1990s, who were the 18 staff people from the UPW who would come to 19 meetings?	16 A. I can't recall. But, you know, it's 17 been a few years. So now we do. Whether at that 18 time I can't recall if that was -- there were some 19 financial reports.
20 A. Aside from Gary, it was -- I remember 21 Dwight being there.	20 Q. Would the board back then in the 1990s, 21 would you vote on matters?
22 Q. Dwight Takeno?	22 A. Voted, yes. Yes.
23 A. Yes.	23 Q. So if I understand correctly, Gary would 24 bring in a written report of some sort; is that 25 correct?
24 Q. Anyone else?	
25 A. I believe a secretary but I don't recall	
Page 15	Page 17
1 whom.	1 A. It was typed.
2 Q. Do you ever recall Jeanne Endo coming 3 back then?	2 Q. But it was Gary who would bring in that 3 report; is that right?
4 A. No.	4 A. Into the booklet, yes.
5 Q. How about Dayton Nakanelua?	5 Q. And that would be distributed to all the 6 trustees who were present, correct?
6 A. No.	7 A. Correct.
7 Q. If checks for funds belonging to the 8 Mutual Aid Fund had to be written, do you know who 9 was authorized to write checks back in the late 10 1990s?	8 Q. And there would be an opportunity to ask 9 questions about what was in the booklet?
11 A. No, I don't.	10 A. Pretty much, yes.
12 Q. Do you know the process by which it was 13 decided that monies would be expended or invested?	11 Q. Have you ever heard of a person by the 12 name of Albert Hewitt?
14 A. Could you repeat that?	13 A. Yes.
15 Q. Do you know whether there was any 16 particular process by which decisions would be 17 made to expend or invest monies belonging to the 18 Mutual Aid Fund Trust?	14 Q. Who is Albert Hewitt?
19 A. Can you do it one more time?	15 A. Our -- he was the investor for the some 16 kind of fire escape. I mean, his initial thing 17 was that Gary had told us that he is the fund, the 18 fund -- I can't remember what his title is 19 exactly.
20 Q. Sure. Was there any process that was 21 followed by the trustees to authorize the 22 expenditure or investment of monies?	20 Q. Were you aware that Albert Hewitt had 21 been providing financial advice to other unions 22 and organizations in Hawaii prior to having any 23 connection with the UPW?
23 A. No.	24 A. No.
24 Q. Do you know who was authorized to write 25 checks?	25 Q. Were you aware that Albert Hewitt was

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1 hired to provide consulting advice on the 2 investment of UPW pension funds?	1 A. No. 2 Q. You're not aware of that?
3 A. Again, please.	3 A. No.
4 Q. Were you aware that Albert Hewitt was 5 hired as a consultant to provide advice on the 6 investment of UPW pension funds?	4 Q. Okay. Now, would you look at item 5 number 8 there on page 1. Were you aware back in 6 1994 that the Mutual Aid Fund Trust voted to place 7 investments of its funds with the Hewitt Company?
7 A. Yes.	8 A. No.
9 Q. And in addition to handling UPW pension 10 funds, Mr. Hewitt also was hired to provide 11 investment advice for the funds belonging to the 12 Mutual Aid Fund Trust. Are you aware of that?	9 Q. Okay. Let me then show you what I 10 previously have marked as Exhibit 3. And if you 11 would just take a quick look at that.
12 A. Hired? I didn't know he was hired. I 13 just heard, you know, the name was given to us. I 14 didn't know there was any -- I mean as far as 15 hiring.	12 (Pause.)
16 Q. Let me ask the court reporter to please 17 mark this --	13 Q. Have you had a chance to look at that?
18 MR. SEITZ: If you don't mind I will 19 mark these consecutive to the other.	14 A. Yes.
20 (Whereupon, June 21, 1994 Minutes were 21 was marked as Exhibit 4 for Identification.)	15 Q. Have you ever seen that exhibit before?
22 Q. Ms. Leong, I'm going to show you what I 23 asked the court reporter to mark as Exhibit 4. 24 Would you just take a quick look at that, and then 25 I'm going to ask you some questions about it.	16 A. No.
Page 19	Page 21
1 A. Uh-huh (affirmative).	1 never seen this particular exhibit, Exhibit 3 2 before?
(Pause.)	3 A. No.
3 Q. Have you had a chance to look at it?	4 Q. Okay. When did you first hear of an 5 investment of Mutual Aid Fund Trust monies in an 6 entity known as Best Rescue?
4 A. Uh-huh (affirmative).	7 A. I don't recall the exact date. But it 8 was in our meeting.
5 Q. Yes?	9 Q. And do you remember approximately when 10 that was?
6 A. Yes.	11 A. No.
7 Q. Is this a document that you've ever seen 8 before?	12 Q. Do you remember what you were told or 13 what you learned about Best Rescue when you first 14 heard that name?
9 A. No.	15 A. Only that it was a company that was 16 going to manufacture these fire safety ladders or 17 something to that effect.
10 Q. Now, if I were to represent to you that 11 these are minutes for a meeting of the Mutual Aid 12 Fund Trust trustees that was held on June 21, 13 1994, would you have any reason to disagree that 14 these are the minutes for such a meeting?	18 Q. Do you have any recollection that the 19 matter of an investment in Best Rescue was brought 20 to the Board of Trustees sometime in late 1998?
15 MR. PRICE: Objection. Lack of 16 foundation. You may answer.	21 A. I'm not sure of that date. But I do 22 remember it.
17 Q. In other words, is there anything about 18 this document as you look at it, that suggests to 19 you that it is not what it purports to be?	23 Q. Do you recall that the board voted to 24 authorize the investment of Mutual Aid Funds in 25 Best Rescue?
20 MR. PRICE: Same objection.	
21 A. No.	
22 Q. If you look on page 2 you see the 23 minutes are signed by George Yasumoto, secretary. 24 Are you aware that George Yasumoto was the 25 secretary back in 1994?	

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1 A. We did not vote. 2 Q. Is it your testimony here today, that if 3 there was any investment of monies belonging to 4 the Mutual Aid Fund Trust in Best Rescue, that 5 that was not based upon a vote of the trustees?	1 Do you know how those checks were 2 written or by whom they were authorized? 3 A. No. 4 Q. Did you ever question whether those -- 5 in any way, at any meeting of the Mutual Aid Fund 6 Trust, did you ever question the propriety of 7 those checks?
6 A. No. 7 Q. And you're sure of that? 8 A. Quite sure. 9 Q. Have you gone back and reviewed any of 10 the minutes or records of the Mutual Aid Fund back 11 in the 1998, 1999 time frame?	8 A. No. 9 Q. To your knowledge did any other trustee?
12 A. Yes. 13 Q. And have you looked to determine if 14 there are any records pertaining to the investment 15 of funds in Best Rescue?	10 A. No. 11 Q. At some point did you learn that that 12 turned out to be a bad investment, and that the 13 amount of \$1.1 million was probably not going to 14 be able to be recovered from Best Rescue?
16 A. Would you repeat that? 17 Q. Are there any minutes of any actions or 18 of any reports that were brought to the board, 19 pertaining to the investment of money in Best 20 Rescue?	15 A. We were informed of that. 16 Q. Who informed you of that?
21 A. Yes, there was a report. 22 Q. And was there any action taken on the 23 report?	17 A. Gary. 18 Q. And what did he tell you, to the best of 19 your knowledge?
24 A. Not to my knowledge.	20 A. That -- would you do that question again?
25 Q. You were a trustee when that report was	21 Q. Sure. When you learned that the 22 investment of monies in Best Rescue had become 23 apparently a bad investment, what did Mr. 24 Rodrigues tell you?
	25 A. He said it probably would be
Page 23	Page 25
1 presented to the board; is that correct?	1 uncollectible.
2 A. That's correct.	2 Q. Did he tell you why?
3 Q. Did you ask any questions about what was 4 in that report?	3 A. Was it that Al Hewitt went through 4 bankruptcy or wasn't -- from what I can recall 5 that would be my answer.
5 MR. PRICE: Objection as to in report.	6 Q. So your best recollection is that it had 7 to do with a bankruptcy in which Mr. Hewitt was 8 involved? Again, I'm only asking for your best 9 recollection.
6 Q. Well, when the report was presented to 7 the board, did you raise any questions about 8 anything pertaining to the subject matters of that 9 report?	10 A. Right. And, you know, so many years 11 have transpired.
10 A. I don't recall.	12 Q. Do you recall when the board was 13 informed that this was probably a bad investment, 14 whether there was a request for authorization to 15 sue Mr. Hewitt or his companies to try and recoup 16 some of the monies?
11 Q. Do you recall any trustee ever raising 12 any questions with Mr. Rodrigues about the 13 investment of Mutual Aid Fund monies in Best 14 Rescue?	17 A. Again, please. 18 Q. Do you recall that when you learned that 19 this was a bad investment, that there was also a 20 request for authority to initiate litigation to 21 try to recoup the investment?
15 A. No.	22 A. No.
16 Q. When the report recommending the 17 investment was provided to the board, did you at 18 that time know of any reasons not to invest funds 19 in Best Rescue?	23 Q. You don't recall that?
20 MR. PRICE: Objection. Assumes facts.	24 A. No.
21 A. No. 22 Q. We've seen that there were a number of 23 occasions when money was transferred from accounts 24 belonging to the Mutual Aid Fund Trust to Best 25 Rescue for the purposes of investment.	25 Q. Are you aware that a lawsuit was filed?

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1 A. Yes. Later.
 2 Q. And was Gary still there when the
 3 lawsuit was filed?
 4 A. I don't believe so.
 5 Q. Are you aware that the lawsuit was
 6 settled?
 7 A. No.
 8 Q. Were you still on the board when the
 9 lawsuit was settled?
 10 A. Yes.
 11 Q. Did you approve the settlement?
 12 A. No -- I don't remember.
 13 Q. Do you remember who had authority to
 14 enter into a settlement of that lawsuit?
 15 (Pause.)
 16 A. No.
 17 Q. Do you know why the lawsuit was settled?
 18 A. Can you give me an idea of when that was?
 19 Q. Assuming that there was a settlement
 20 sometime in 2003, 2004 time frame, do you know why
 21 a settlement of that lawsuit was entered into on
 22 behalf of the Mutual Aid Fund Trust as opposed to
 23 continuing the litigation?
 24 A. I think at that time we went into
 25 administratorship thinking in the best interests

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1 had been advanced to it?
 2 A. I would -- it would be Gary.
 3 Q. Do you have any information that
 4 actually it was Jeanne Endo who was responsible on
 5 a day-to-day basis for monitoring those
 6 investments?
 7 A. Overseen by Gary.
 8 Q. Who was Jeanne Endo's boss when Gary was
 9 still there, immediate superior?
 10 A. Gary.
 11 Q. Wasn't it Dayton Nakanelua? Didn't she
 12 work for him?
 13 A. Not how I understood it.
 14 Q. Okay. At some point this lawsuit was
 15 filed and Gary was sued over the loss of the
 16 monies that were invested in Best Rescue. You're
 17 aware of that?
 18 A. I believe.
 19 Q. At some point a lawsuit was filed on
 20 behalf of the Mutual Aid Fund Trust against Gary
 21 Rodrigues to recoup the monies that were lost in
 22 Best Rescue. You're aware of that?
 23 A. Yes.
 24 Q. Do you know who made the decision to
 25 initiate that lawsuit?

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1 of the membership and where we were at.
 2 Q. Okay. Is it your recollection that as a
 3 result of that settlement that an insurance
 4 company of Mr. Hewitt's paid \$200,000?
 5 A. Yes.
 6 Q. And do you have any recollection of
 7 having voted to accept that settlement and to
 8 terminate the litigation based upon it?
 9 A. No.
 10 Q. Do you know if Mr. Rodrigues, Gary
 11 Rodrigues, was in any way involved in the
 12 litigation by which the Mutual Aid Fund Trust
 13 attempted to recoup money from Al Hewitt or Best
 14 Rescue?
 15 A. Could you repeat that?
 16 Q. Was Gary Rodrigues involved in any of
 17 that litigation?
 18 A. I wouldn't know.
 19 Q. Do you know if he was consulted before
 20 it was settled?
 21 A. I don't know.
 22 Q. Do you know who at the UPW was
 23 responsible for monitoring the investment in Best
 24 Rescue, to determine that Best Rescue was making
 25 payments back to UPW on account of the loans that

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1 A. I believe it was AFSCME.
 2 Q. That was made during the period of time
 3 that AFSCME was administering the fund?
 4 A. Yes.
 5 Q. And at some point were you involved in a
 6 discussion and a decision to endorse that earlier
 7 decision, to adopt that decision?
 8 A. No.
 9 Q. Do you recall any meeting or discussion
 10 of the Board of Trustees in which the board was
 11 asked to approve and to continue the litigation?
 12 A. I can't recall.
 13 Q. Let me show you what we previously
 14 marked as Exhibit 2. And let me ask you, please,
 15 to look at that particular document.
 16 (Pause.)
 17 Q. Do you recognize Exhibit 2?
 18 A. Yes.
 19 Q. What is Exhibit 2?
 20 A. The minutes of the Mutual Aid trustees
 21 meeting.
 22 Q. On May 23, 2004?
 23 A. Yes.
 24 Q. And you attended that meeting; is that
 25 correct?

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1 A. Yes.	1 approved with due diligence by former trustees,
2 Q. And do you see on page 2 under paragraph	2 you're one of those former trustees, aren't you?
3 7 it says "litigation"?	3 A. Yes.
4 A. Uh-huh (affirmative).	4 Q. And when it talks about the \$1.1 million
5 Q. Yes?	5 as having been determined as uncollectible and it
6 A. Yes.	6 refers to former trustees, that includes you,
7 Q. And apparently the State Director, who	7 correct, because you were on the board at that
8 was Dayton Nakanelua at that point in time, made a	8 time?
9 report to the board about this particular case,	9 A. Are you saying we approved?
10 UPW versus Gary Rodrigues; is that correct?	10 Q. Without reference to the word
11 A. That's correct.	11 "approved." But when the board was informed or
12 Q. And the first thing he reported was that	12 took any action with regard to understanding for
13 there had been a \$1.1 million loan to Best Rescue	13 the first time that the loan was uncollectible,
14 Systems which was made through Albert Hewitt and	14 the investment was uncollectible, you were one of
15 Investment Advisors; is that right?	15 the board members at that time, weren't you?
16 A. Yes.	16 A. Yes.
17 Q. Then he said that the loan had been	17 Q. Now, do you know why Gary Rodrigues is
18 approved without due diligence in a risky company	18 being sued over that investment as opposed to the
19 by the former trustees. Do you see that?	19 trustees?
20 A. Yes.	20 A. He basically ran the show, and what was
21 Q. Is that, in fact, what Dayton reported?	21 presented to us is what we accepted.
22 Is that your recollection?	22 Q. Aren't the trustees the ones who are
23 A. Yes.	23 responsible for running the Mutual Aid Fund Trust?
24 Q. And then he goes on to say that the	24 A. Not in the sense of running. He, as the
25 former trustees had approved the \$1.1 million as	25 State Director, was running the show in
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1 being uncollectible; is that right?	1 everything.
2 A. Approved is a rather strong word.	2 Q. Isn't it your understanding that the
3 Q. Okay. What did he report to the board	3 trustees had a responsibility to supervise any
4 at that particular time?	4 decisions that were made about funds of the trust?
5 A. I don't recall. But reading it, you	5 A. No.
6 know, at the time that it was presented that it	6 Q. It wasn't your responsibility?
7 was uncollectible, we were just informed more than	7 A. We weren't told that. And we -- it
8 us saying we approved that is.	8 would be -- this is what is presented.
9 Q. Then a motion was made by Yvonne Gaspar	9 Q. This was presented by Dayton Nakanelua;
10 to ratify the administrator's decision to file	10 is that right?
11 this particular lawsuit against Gary Rodrigues and	11 A. What we were given.
12 to continue the litigation; is that right?	12 MR. PRICE: Objection. Vague.
13 A. Yes.	13 Q. This report about the litigation and the
14 Q. And the motion was seconded by Angel	14 wisdom of continuing the litigation, that was all
15 Santiago-Cruz?	15 based upon what was told to you by Dayton
16 A. Yes.	16 Nakanelua; is that correct?
17 Q. Then it was approved by the Board of	17 A. I don't think -- I don't see Dayton's
18 Trustees?	18 name on here.
19 A. Yes.	19 Q. Who was the State Director on May 23,
20 Q. Did you vote on that motion?	20 2004?
21 A. I can't recall, but yeah.	21 A. Now I can't recall the dates of our
22 Q. If you had abstained it would be written	22 administratorship. And then Peter Trask was
23 in the minutes wouldn't it?	23 there. I couldn't say that --
24 A. Correct.	24 Q. Okay. So you're not sure who the State
25 Q. When it talks here about the loan being	25 Director was at that time; is that correct? You

<p>Page 34</p> <p>1 don't recall the dates?</p> <p>2 A. I would say it was Dayton, yes.</p> <p>3 Q. Did anyone other than Dayton Nakanelua 4 make any recommendations to the trustees about 5 continuing the litigation against Gary? Was there 6 anyone else who made recommendations of that 7 nature?</p> <p>8 A. I can't recall.</p> <p>9 Q. As you sit here today, what did Gary 10 Rodrigues do or fail to do for which he's been 11 sued in this case?</p> <p>12 MR. PRICE: Objection to the extent it 13 calls for a legal conclusion. You can give your 14 answer.</p> <p>15 A. Would you repeat that?</p> <p>16 Q. Yes. What did Gary Rodrigues do or fail 17 to do which provides a basis for suing him in this 18 case?</p> <p>19 MR. PRICE: Same objection.</p> <p>20 A. I believe it was that he didn't give us 21 proper -- he didn't give us proper either 22 paperwork or presentation of who this investor was 23 and to the extent of what we were going to do.</p> <p>24 Q. Do you know if any of the trustees ever 25 asked for or demanded any more documentation?</p>	<p>Page 36</p> <p>1 A. I don't know if that's how it's done.</p> <p>2 Q. In these minutes at the next paragraph, 3 paragraph 8, it says, "Trustees are governed by 4 federal law and need to do what's right for the 5 beneficiaries of the plan. Upcoming training will 6 be provided."</p> <p>7 Was that upcoming training ever 8 provided?</p> <p>9 A. Yes.</p> <p>10 Q. What did it consist of?</p> <p>11 A. The lawyer coming to us to explain what 12 our duties are.</p> <p>13 Q. And you don't remember who that lawyer 14 was?</p> <p>15 A. No.</p> <p>16 Q. Let me hand you what I'm going to ask 17 the court reporter to mark as the next exhibit in 18 order, please.</p> <p>19 (Whereupon, a Declaration of Alison 20 Leong was marked as Exhibit 5 for Identification.)</p> <p>21 Q. I'm now handing you what he has marked 22 as Exhibit 5. That is your declaration that was 23 filed in this case; is that correct?</p> <p>24 A. That's correct.</p> <p>25 Q. And that's one of the documents that you</p>
<p>Page 35</p> <p>1 A. I can't recall. More or less everything 2 was presented, this is what -- it was more after 3 the fact that it was done already. And then 4 presented to us.</p> <p>5 Q. When the State Director, if it was Mr. 6 Nakanelua or somebody else, uses in parenthesis 7 these words "risky company," do you know why Best 8 Rescue is described as a risky company?</p> <p>9 A. At this time, I guess, already he had 10 defaulted.</p> <p>11 Q. But do you know anything about that 12 company that would have made it possible for 13 anyone to determine that it was a risky investment 14 back in 1998 or 1999 when the investments were 15 made?</p> <p>16 A. No.</p> <p>17 Q. Does the Mutual Aid Fund Trust receive 18 funds directly from the state on behalf of UPW 19 members?</p> <p>20 A. I believe the way we do it is a payroll 21 deduction. That's how we do it in the private 22 sector. So I wouldn't know how it's handled 23 through the state.</p> <p>24 Q. Do you have an understanding that state 25 employees also have a payroll deduction system?</p>	<p>Page 37</p> <p>1 recently reviewed in preparation for this 2 deposition; is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Now if you look at paragraph 2, you see 5 there it says, "Gary Rodrigues was the State 6 Director of UPW and the Plan Administrator of the 7 Mutual Aid Fund Trust."</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And I asked you earlier whether you 11 thought Mr. Rodrigues was a trustee. Does that 12 affect your opinion when you told me that you 13 believed he was a trustee? That he's the Plan 14 Administrator and not the trustee?</p> <p>15 A. My understanding of trustee is all of 16 the vice presidents and the State Director.</p> <p>17 Q. So you still believe that he was a 18 trustee?</p> <p>19 A. Yes.</p> <p>20 Q. Did Mr. Rodrigues vote on matters that 21 were voted upon by the board of the Mutual Aid 22 Fund Trust? Did he ever vote?</p> <p>23 A. Not to -- not that I can recall.</p> <p>24 Q. Did he ever make motions?</p> <p>25 A. Not that I can recall.</p>

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<p>1 Q. He made reports?</p> <p>2 A. Yes.</p> <p>3 Q. You say here that during the years from</p> <p>4 1998 to 2001 when you were on the board that the</p> <p>5 board meetings were typically short, 15 minutes or</p> <p>6 less; is that correct?</p> <p>7 A. Yes.</p> <p>8 Q. Isn't it true that the meetings were</p> <p>9 often closer to or longer than an hour?</p> <p>10 A. No.</p> <p>11 Q. So if somebody else were to testify that</p> <p>12 the meetings were longer than that, you would</p> <p>13 disagree?</p> <p>14 A. Yes.</p> <p>15 Q. And you've told us that there was very</p> <p>16 little in the way of questions or discussions,</p> <p>17 you say in paragraph 3 here; is that correct?</p> <p>18 A. That's correct.</p> <p>19 Q. Why is that?</p> <p>20 A. We took the report, what was presented</p> <p>21 as it was, and we just trusted what was presented.</p> <p>22 Q. Did Mr. Rodrigues refuse to allow</p> <p>23 questions?</p> <p>24 A. He didn't -- no, he didn't refuse.</p> <p>25 Q. He wouldn't chair these meetings, would</p>	<p>1 because most of the investments of the union, of</p> <p>2 the pension fund, and other funds had been</p> <p>3 invested successfully, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And you also had received reports about</p> <p>6 Mr. Hewitt's success in managing funds for the</p> <p>7 union; isn't that right?</p> <p>8 A. No.</p> <p>9 Q. And you say here, "Mr. Rodrigues did not</p> <p>10 ask for or obtain board approval for specific</p> <p>11 investments and the board did not vote on specific</p> <p>12 investments." That's what you say in your</p> <p>13 declaration; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. So is it your testimony that the entire</p> <p>16 time you were on the board during the period of</p> <p>17 time that Mr. Rodrigues was there, there was never</p> <p>18 any request for or decision made by the board</p> <p>19 about investments? Is that your testimony?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And it's your testimony under</p> <p>22 oath in this declaration that you and other</p> <p>23 members of the board did not know about the</p> <p>24 investment of any money in Best Rescue until 1999;</p> <p>25 is that right?</p>
Page 39	Page 41
<p>1 he? The meetings were chaired by the president,</p> <p>2 right?</p> <p>3 A. Well, at some point it was probably both</p> <p>4 of them.</p> <p>5 Q. When he was making his reports he would</p> <p>6 direct the discussion; is that correct? Is that</p> <p>7 fair to say?</p> <p>8 A. Yes.</p> <p>9 Q. Did he ever dissuade people from asking</p> <p>10 questions?</p> <p>11 A. I wouldn't think dissuade. But pretty</p> <p>12 much took it, what was presented.</p> <p>13 Q. To the extent that people did not ask</p> <p>14 questions, members of the board, or engage in</p> <p>15 discussion, that was their decision, wasn't it, as</p> <p>16 to whether or not they were going to ask questions?</p> <p>17 A. Yes.</p> <p>18 Q. If you had questions, you could have</p> <p>19 asked them, right?</p> <p>20 A. Yes.</p> <p>21 Q. Now, it says, "the board trusted and</p> <p>22 relied on Mr. Rodrigues to invest the MAF trust</p> <p>23 funds wisely;" is that right?</p> <p>24 A. Yes.</p> <p>25 Q. And that was based on past experience</p>	<p>1 A. Yes.</p> <p>2 Q. After the money had been already</p> <p>3 invested; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Have you discussed that recollection of</p> <p>6 yours with other people who were on the board at</p> <p>7 the time, to see whether they agree with you?</p> <p>8 A. I may have.</p> <p>9 Q. Who was the representative on the Best</p> <p>10 Rescue board for Maui in that time period 1998,</p> <p>11 1999? Do you remember?</p> <p>12 A. You mean the MAF?</p> <p>13 Q. Yes.</p> <p>14 A. I believe it was Harold Moniz.</p> <p>15 Q. Have you discussed with Harold Moniz</p> <p>16 what his recollections are about whether this</p> <p>17 matter of Best Rescue was presented to and decided</p> <p>18 upon or voted upon by the board?</p> <p>19 A. No.</p> <p>20 Q. Who was the representative from Kauai at</p> <p>21 that time?</p> <p>22 A. If I can recall, it was Joe Vegas.</p> <p>23 Q. Have you ever talked to Joe Vegas about</p> <p>24 whether or not he recalls the matter having been</p> <p>25 brought up to the Board of Trustees?</p>

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<p>1 A. No.</p> <p>2 Q. If they were to testify that they</p> <p>3 specifically recall the matter being presented to</p> <p>4 the board and voted upon and approved by the</p> <p>5 board, do you believe that they would be lying?</p> <p>6 A. I think it's interpretation.</p> <p>7 Q. Okay. Now, your testimony is that</p> <p>8 between 1999 and 2001, if I read these paragraphs</p> <p>9 correctly, that Mr. Rodrigues did not mention Best</p> <p>10 Rescue again; is that correct?</p> <p>11 A. What paragraph again?</p> <p>12 Q. Reading paragraphs 5 and 6 together, you</p> <p>13 talk about the fact that on July 19, 1999 there</p> <p>14 was a meeting at which the -- I'm sorry, yes,</p> <p>15 there was a meeting at which you received an audit</p> <p>16 report.</p> <p>17 Then the next time Mr. Rodrigues told</p> <p>18 the board about Best Rescue was in 2001; is that</p> <p>19 correct? That's what you say in paragraph 6,</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. So I presume then from July 19, 1999</p> <p>23 until sometime in 2001 there was no discussion</p> <p>24 about Best Rescue; is that right?</p> <p>25 A. Yes.</p>	<p>1 different procedure now than was followed back</p> <p>2 when Gary was there?</p> <p>3 A. Definitely.</p> <p>4 Q. What's the difference?</p> <p>5 A. We are given financial reports. We</p> <p>6 review them more carefully. And discussion and</p> <p>7 questions are pretty -- are very open. Board</p> <p>8 members have changed. And we now find we're</p> <p>9 questioning everything.</p> <p>10 Q. You still receive reports from the State</p> <p>11 Administrator; is that correct?</p> <p>12 A. The State Administrator?</p> <p>13 Q. Well, the administrator of the board who</p> <p>14 is the State Director, right?</p> <p>15 A. Yes.</p> <p>16 Q. Still makes reports?</p> <p>17 A. Yes.</p> <p>18 Q. And he still makes recommendations; is</p> <p>19 that correct?</p> <p>20 A. Recommendations regarding?</p> <p>21 Q. For actions by the board.</p> <p>22 A. Yes.</p> <p>23 Q. In the period of time in the last year</p> <p>24 or two, have any recommendations or requests for</p> <p>25 action by the State Administrator ever been</p>
Page 43	Page 45
<p>1 Q. Do you recall receiving financial audits</p> <p>2 in which the issue of Best Rescue was discussed</p> <p>3 during that time period?</p> <p>4 A. We probably did receive a report. But</p> <p>5 there was no discussion.</p> <p>6 Q. And why wasn't there any discussion?</p> <p>7 A. It was that we did this -- I mean the</p> <p>8 investment was made, and then it was uncollectible.</p> <p>9 Q. Did you have any questions about why the</p> <p>10 investment was made, when you first heard about it</p> <p>11 in 1999?</p> <p>12 A. No, we just took -- I just took what he</p> <p>13 had said and what he had presented. That it was</p> <p>14 what already happened.</p> <p>15 Q. As a trustee wasn't it your duty to ask</p> <p>16 questions so that you could assure yourself that</p> <p>17 this was a proper investment?</p> <p>18 A. Yes. But I did not question, as I said,</p> <p>19 everything was presented. And what he had</p> <p>20 presented was what we took as he knew what, you</p> <p>21 know, we follow his lead. And he's saying -- I</p> <p>22 assume he did his research and it was a sound</p> <p>23 investment.</p> <p>24 Q. Currently, when the Board of Trustees</p> <p>25 meets, over the last couple of years, is there any</p>	<p>1 rejected?</p> <p>2 A. Yes.</p> <p>3 Q. What kinds of things have been rejected?</p> <p>4 A. Pay raises for the staff.</p> <p>5 Q. I'm not talking about the State</p> <p>6 Executive Board now. I'm talk about the Board of</p> <p>7 Trustees of the Mutual Aid Fund.</p> <p>8 A. Okay.</p> <p>9 Q. Has Mr. Nakanelua ever made any</p> <p>10 recommendations for action by the trustees that</p> <p>11 the trustees have rejected?</p> <p>12 A. No. Not lately. I mean, we haven't had</p> <p>13 any definitive items.</p> <p>14 Q. So in that respect the board functions</p> <p>15 similarly to when Gary Rodrigues was there; is</p> <p>16 that correct? The State Director makes</p> <p>17 recommendations to the Board of Trustees, and the</p> <p>18 Board of Trustees have adopted them; is that</p> <p>19 right?</p> <p>20 A. No.</p> <p>21 Q. How is it different?</p> <p>22 A. We do question. We, you know, take</p> <p>23 these -- I mean, we have probably had said no to</p> <p>24 certain things but I can't recall a specific item.</p> <p>25 Q. And you've been attending meetings on a</p>

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<p>1 quarterly basis; is that correct? 2 A. Yes. 3 Q. But as you sit here today, you cannot 4 recall any specific item that's been recommended 5 by Mr. Nakanelua which the board has rejected; is 6 that right? 7 A. Regarding the MAF? 8 Q. Yes. 9 A. No. 10 Q. I'm correct you can't recall anything? 11 Is that right? 12 A. I don't -- recent item? 13 Q. Yes. 14 A. We have -- no. 15 Q. Okay. So when Mr. Nakanelua made a 16 recommendation back in 2004 that the lawsuit 17 against Gary Rodrigues be continued, did anybody 18 question that recommendation? 19 A. I think we didn't question. 20 Q. Did anybody request information about 21 why the lawsuit was started in the first place? 22 A. No. Because basic -- we wanted to 23 recoup our money. 24 Q. Did anybody suggest that the lawsuit 25 should be broadened to include suing the trustees</p>	<p>1 I, ALISON LEONG, hereby certify that I 2 have read the foregoing typewritten pages; and 3 corrections, if any, were noted by me; and the 4 same is now an accurate and complete transcript of 5 my testimony. 6 7 Dated at _____ Hawaii 8 this _____ day of _____, 2007 9 10 _____ 11 ALISON LEONG 12 13 14 Signed before me this _____ day 15 of _____, 2007. 16 17 _____ 18 Witness to Deponent's Signature 19 20 21 22 Steven De Costa, et al. vs. Gary W. Rodrigues 23 Civil No. 03-00598 DAB/LEK, September 28, 2007 24 by William T. Barton, RPR, CSR. 25</p>
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<p>1 who were on the board when the investments were 2 made? 3 A. No. 4 Q. And other than yourself, when this 5 meeting occurred back on May 23, 2004, were there 6 other people who were still trustees who had been 7 trustees back in '98 and 1999? 8 A. I believe the other person was Craig 9 Yugawa. 10 Q. Your recollection is that Craig Yugawa 11 was on the board when you first joined it, and 12 then was still on the board back in 2004; is that 13 correct? 14 A. Yes. 15 Q. Do you know when George Yasumoto left 16 the Board of Trustees? 17 A. When we went into administratorship. 18 Q. And he was not on the board again when 19 the board was reconstituted? 20 A. No. 21 MR. SEITZ: Okay. I think I'm done. 22 (Deposition concluded at 12:50 p.m.) 23 24 25</p>	<p>1 CERTIFICATE 2 STATE OF HAWAII) 3) SS. 4 COUNTY OF HONOLULU) 5 I, WILLIAM T. BARTON, RPR, Certified 6 Shorthand Reporter, State of Hawaii, do hereby 7 certify that on September 28, 2007 at 11:40 a.m. 8 there appeared before me ALISON LEONG, the witness 9 whose deposition is contained herein; and that 10 prior to being examined was duly sworn; that I am 11 neither counsel for any of the parties herein, nor 12 interested in any way in the outcome of this 13 action; 14 That the deposition herein was by me taken 15 down in machine shorthand and thereafter reduced 16 to print via computer-aided transcription under my 17 supervision; that the foregoing represents a 18 complete and accurate transcript of the testimony 19 of said witness to the best of my ability. 20 Dated this 2nd day of October 2007 at 21 Honolulu, Hawaii. 22 23 WILLIAM T. BARTON, CSR No. 391 24 Notary Public, State of Hawaii 25 My Commission expires August 7, 2009</p>